

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed December 28, 2005. At the time of the Final Office Action, Claims 1-16 were pending in this Application. Claims 1-16 were rejected. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 1-16 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 5,978,476 issued to Scott Redman et al. ("Redman") in view of U.S. Patent 6,694,433 issued to James L. Kolouch ("Kolouch"). Applicant respectfully traverse and submit the cited art combinations, even if proper, which Applicant does not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

According to the independent claims a control program code is made available, for example, through the Internet by a specific procedure. In this procedure, the program code is first encrypted in the first development system and then the encrypted control program code is transferred from the first development system to a second development system by

converting the encrypted control program code into HTML- or XML-format by the first development system.

The Examiner stated that even though Redman does not disclose the step of converting encrypted data into HTML or XML data, Kolouch discloses this step. Applicant respectfully disagrees. According to the independent claims, the encrypted program code is converted into HTML or XML data code to be accessible through the Internet. Kolouch does neither disclose nor suggest this step. According to Kolouch, an XML object can be encrypted. See in particular col. 5, lines 50-54 and Fig. 6. As can be seen, in particular in Fig. 6, Kolouch discloses a different approach in which XML tags and XML object can be encrypted.

However, the independent claim is directed to a control program code that is to be transferred from a first development system to second one by transferring the encrypted data into HTML or XML format. Thus, a combination of Redman and Kolouch would not lead to a method or system according to the present independent claims. Nowhere in either Redman or Kolouch can the step of converting an encrypted control program code into HTML or XML format be found to make such a program code accessible for a second development system. Thus, a person skilled in the art would not even be motivated to combine these references. Therefore, Applicant believes that the present independent claims are not obvious in view of the cited prior art.

Applicant respectfully submits that the dependent Claims are allowable at least to the extent of the independent Claims to which they refer, respectively. Thus, Applicant respectfully requests reconsideration and allowance of the dependent Claims. Applicant reserves the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Change of Correspondence Address

Applicant respectfully requests that all papers pertaining to the above-captioned patent application be directed to Customer No. **31625** and all telephone calls should be directed to Andreas Grubert at 512.322.2545.

Request for Continued Examination (RCE)

Applicant submits herewith a Request for Continued Examination Transmittal, along with a check in the amount of \$790.00 for the fee.

Information Disclosure Statement

Applicant enclose a new Information Disclosure Statement and PTO Form 1449 for the Examiner's review and consideration. Applicant believes no further fees are due at this time since this Information Disclosure Statement is being submitted with a RCE. Applicant submits these references were recently cited in an office action in the German counterpart.

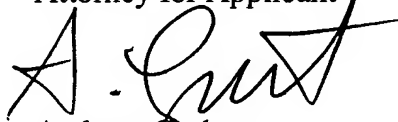
CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicant respectfully requests reconsideration of all pending Claims.

Applicant believes there are no further fees due at this time, however, the Commissioner is hereby authorized to charge any additional fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorney for Applicant



Andreas Grubert
Limited Recognition No. L0225
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Limited Recognition Under 37 C.F.R. §11.9(b)

Date: March 27, 2006

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